

Application No.: 09/835,866
Amendment

R E M A R K S

Reconsideration of the application in view of the above amendments and following remarks is respectfully requested. In the above amendment, no claims have been amended, claims 1-3, 5-6, 8-12, 15-17, 19-20, 22-26, 31-33 and 35-36 have been canceled without prejudice, and no new claims have been added. Therefore, claims 13-14, 27-30 and 34 are pending in the application.

Second Reminder:

Two Additional IDSs Filed 10/3/03 and 12/23/03

Applicant mailed a Supplemental Information Disclosure Statement (IDS) to the PTO for this application on October 3, 2003, and also electronically filed another Supplemental IDS for this application on December 23, 2003. Applicant requests that the Examiner consider the references listed in these two IDSs and return copies of the signed Forms PTO-1449 with the next paper for this application.

The undersigned spoke to Examiner Phan in a brief telephone call on October 29, 2004, and the Examiner confirmed that these IDSs are in the USPTO file and that he would send the signed Forms PTO-1449 with the next paper. Nothing else was discussed in that particular telephone conversation.

Yet Another Supplemental IDS Included Herewith

Included herewith in this filing is yet another Supplemental IDS. Applicant requests that the Examiner consider the references listed therein and return a copy of the signed Form PTO-1449 with the next paper for this application. A Request for Continued Examination (RCE) has also been submitted herewith in order to make this IDS

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properly filed.

Written Statement regarding Substance of 10/20/04 Interview
per 37 CFR 1.133(b)

Applicant appreciates very much the opportunity to discuss the rejections in this application with Examiner Hanh Phan in the telephone interview that occurred on October 20, 2004, at 3:00 p.m. EST. Those participating in the interview were the undersigned, the inventor Heinz Willebrand, and Examiner Phan. In accordance with the requirements of 37 CFR 1.133(b), and the Manual of Patent Examining Procedure (MPEP) §713.04, Applicant provides the following written statement of the reasons presented at the interview as warranting favorable action.

No exhibits were shown or discussed. The claims that were discussed were independent claims 1, 3, 5, 6, 10, 15, 23, 25, 35 and 36. The prior art that was discussed was U.S. Patent Application Publication No. 2002/0122230 A1 to Izadpanah et al. ("Izadpanah et al."), and U.S. Patent Application Publication No. 2002/0152320 A1 to Lau ("Lau").

The general thrust of the Applicant's principal argument that was discussed in the interview was that the Examiner has not responded to Applicant's argument that Izadpanah et al. itself teaches against modifying that system to have a non-wireless alternate communication path, and that Lau is irrelevant because Izadpanah et al. teaches against the proposed modification. Furthermore, Applicant argued that there is no motivation to modify Izadpanah et al.'s system to have a non-wireless alternate communication path because such would render Izadpanah et al.'s system unsatisfactory for its intended purpose and change its principal of operation.

The Examiner indicated that he would discuss the arguments with his supervisor and call the undersigned back. The Examiner called the undersigned back the same day on October 20, 2004. The Examiner indicated that he did speak with his supervisor but that they decided to maintain the rejection, especially in view of Izadpanah et al.'s FIGS. 5(a) and 5(b) and paragraph [0060] on page 6. The undersigned indicated to the Examiner that Applicant disagreed that those portions of Izadpanah et al. overcame Applicant's arguments mentioned above. The telephone interview ended with no agreement being reached.

Written Statement regarding Substance of 10/29/04 Interview
per 37 CFR 1.133(b)

Applicant appreciates very much the opportunity to discuss the rejections in this application with Supervisory Examiner Jason Chan in the telephone interview that occurred on October 29, 2004, at approximately 12:45 p.m. EST. Those participating in the interview were the undersigned and Supervisory Examiner Chan. In accordance with the requirements of 37 CFR 1.133(b), and the Manual of Patent Examining Procedure (MPEP) §713.04, Applicant provides the following written statement of the reasons presented at the interview as warranting favorable action.

No exhibits were shown or discussed. The claims that were discussed were independent claims 1, 3, 5, 6, 10, 15, 23, 25, 35 and 36. The prior art that was discussed was U.S. Patent Application Publication No. 2002/0122230 A1 to Izadpanah et al. ("Izadpanah et al."), and U.S. Patent Application Publication No. 2002/0152320 A1 to Lau ("Lau").

The general thrust of the Applicant's principal argument

that was discussed in the interview was substantially the same as the arguments presented in the October 20, 2004, interview with Examiner Phan discussed above. In addition, Applicant argued that Izadpanah et al.'s FIGS. 5(a) and 5(b) and paragraph [0060] on page 6 still do not make it obvious to have a non-wireless alternate communication path in Izadpanah et al.'s system. This is because Izadpanah et al.'s FIG. 5(b) merely shows Izadpanah et al.'s system being used to close a link breakage and does not show Izadpanah et al.'s system being modified so that the network data traffic is routed through a non-wireless alternate communication path instead of being directed over a free-space optical link.

Supervisory Examiner Chan indicated that he disagreed with Applicant's arguments and that in his view Lau does make it obvious to make the Examiner's proposed modifications to Izadpanah et al.'s system. The undersigned indicated again that Applicant disagreed, and the telephone interview ended with no agreement being reached.

Allowed Claims

Applicant acknowledges with appreciation the Examiner indicating that claims 13, 14 and 27-30 are allowed. In addition, Applicant submits that claim 34 should also be allowed since it is dependent upon allowed claim 27.

Claim Rejections under 35 U.S.C. § 103

The Examiner rejected claims 1-3, 5, 6, 8-12, 15-17, 19-26, and 31-36 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0122230 A1 to Izadpanah et al. ("Izadpanah et al.") in view of U.S.

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Patent No. 6,587,687 B1 to Wiedeman ("Wiedeman"), and further in view of U.S. Patent Application Publication No. 2002/0152320 A1 to Lau ("Lau"). Applicant respectfully traverses these rejections.

Applicant has canceled without prejudice all of the claims except for the allowed claims 13, 14 and 27-30, and claim 34. Applicant submits that claim 34 should also be allowed since it is dependent upon allowed claim 27. Therefore, the rejections under 35 U.S.C. § 103(a) are now moot and this application is in a condition for allowance. Applicant reserves the right and the ability to present the canceled claims in their original scope in a continuation application because Applicant continues to disagree with the rejections. Applicant is not canceling those claims for reasons related to patentability. Instead, Applicant is canceling those claims from this application merely to speed up the issuance of a patent having the allowed claims since this application has been pending for three and one-half years now.

Fees Believed to be Due

No extra claims fees are believed to be due.

A Fee Transmittal is enclosed herewith to cover the fee for the Request for Continued Examination (RCE).

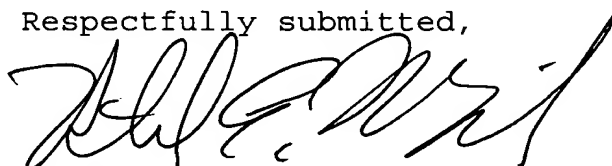
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C O N C L U S I O N

In view of the above, Applicant submits that the pending claims are in condition for allowance. Should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone Richard E. Wawrzyniak at (858)552-1311 so that such issues may be resolved as expeditiously as possible.

Dated 11/3/04

Respectfully submitted,



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